

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Joey Raymond Syers**

Docket No. **269655**

L.C. No. **04-051074-FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10), orders:

The delayed application for leave to appeal filed April 10, 2006, is DISMISSED for lack of jurisdiction because it was not filed within 12 months of the January 19, 2005 judgment of sentence as required by MCR 7.205(F)(3) and neither exception found in MCR 7.205(F)(4) applies. The Court is aware of certain orders from the Supreme Court and this Court that started a 12-month time period from the order appointing counsel even though the court rule clearly has a 42-day period. However, there is one very significant factual difference in this case versus those cases. In all those cases the order appointing counsel would occur long after the expiration of the 12-month period of MCR 7.205(F)(3). In this case counsel still had at least three months to file the application for leave to appeal within the 12-month rule of MCR 7.205(F)(3). The Court views this case as being no different than if the September 2005 order of appointment occurred pursuant to an original request.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 17 2006

Date

Sandra Schultz Mengel
Chief Clerk